Amendment/Reply
Applicant: Wassim Haddad
Serial No.: 10/697,951
Filed: October 31, 2003
Docket No.: 300110632-2
Title: METHOD AND ASSOCIATED APPARATUS FOR CREATING A NETWORK CONNECTION TO A
NETWORK BASED ON BANDWIDTH

REMARKS

The following remarks are made in response to the Final Office Action mailed October 15, 2009. Claims 1-37 were rejected. With this Response, claims 1, 13, 15, 19, 24-27, 29, 33-37 have been amended. Claims 1-37 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 112

The Examiner rejected claims 1, 24, 27, 29, and 34-37 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1, 24, 27, 29, and 34-37 have been amended to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Accordingly, Applicant submits that the above rejection of claims 1, 24, 27, 29, and 34-37 under 35 U.S.C. § 112, second paragraph, should be withdrawn. Allowance of claims 1, 24, 27, 29, and 34-37 is respectfully requested.

Claim Rejections under 35 U.S.C. § 102

The Examiner rejected claims 15-18, 22, 26, 29-32, and 37 under 35 U.S.C. § 102(e) as being anticipated by Chaskar et al., U.S. Patent Application Publication No. 2004/0196808 ("Chaskar").

Applicant submits that Chaskar fails to teach or suggest the limitations recited by amended independent claim 15 including "**a computing device capable of connecting to at least two wireless IP networks simultaneously**" and "**said computing device further comprising a transceiver capable of establishing a connection to a first network and arranged to establish a connection with the first network over a first channel should sufficient bandwidth be available; and said transceiver capable of establishing a connection to a second network and arranged to establish a connection with the second network over a second channel simultaneously with the connection with the first network should sufficient bandwidth be available.**"

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Chaskar discloses a system and method to facilitate handoffs in mobile networks, such as mobile IP networks. An access router is enabled to dynamically learn about other access routers that are geographically adjacent by receiving information from mobile terminals that move into the service area of the access router. Access routers share capability information. A target access router is allowed to be selected and a handoff is arranged on the basis of capability information associated with one or more target access routers and of the basis of the direction of the movement of the mobile node. (Para. [0015]).

The Examiner submits that Chaskar inherently teaches that when the mobile terminal is in overlapping service areas supported by AR2, AR3, and AR4, the mobile terminal can connect to AR2, AR3, and AR4 simultaneously. (Final Office Action, page 7). Chaskar discloses that a failure indication is delivered to a mobile terminal if a handoff based on the delivered requirements is not feasible. (Para. [0038]). The mobile terminal disclosed by Chaskar cannot maintain channels with two access routers simultaneously.

The Examiner is relying upon inherency to reject these claim limitations. (Final Office Action, page 7). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.' " (M.P.E.P. § 2112(IV)). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic <u>necessarily</u> flows from the teachings of the applied prior art." (M.P.E.P. § 2112(IV); emphasis in original).

Applicant submits that it is not inherent in Chaskar that the mobile terminal can maintain channels with two access routers simultaneously. Rather, Chaskar specifically teaches away from maintaining channels with two access routers simultaneously. Chaskar discloses in Figure 6 a mobile terminal MT moving from a service area associated with a first access router AR1 to an area serviced by three different access routers AR2, AR3, and AR4. As mobile users move from the service area associated with AR1 into the service area associated with access routers AR2, AR3, and AR4, access router AR1 would learn about the capabilities of the access routers AR2, AR3, and AR4, and would then be able to selectively control the handoff of other mobile terminals on the basis of capability information

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associated with each access router. Under this scenario, two different mobile terminals moving into the same geographic location could be assigned to different access routers. (Para. [0045]).

Therefore, Chaskar specifically discloses a mobile terminal moving from access router AR1 to <u>one</u> of access routers AR2, AR3, and AR4 based on capability information. The mobile terminal <u>does not</u> communicate with two of the access routers AR2, AR3, and AR4 simultaneously. It is not <u>necessarily present</u> that the mobile terminal can connect to AR2, AR3, and AR4 simultaneously. In fact, Chaskar specifically teaches that the mobile terminal cannot connect to AR2, AR3, and AR4 simultaneously. Accordingly, it is not inherent in Chaskar that the mobile terminal can connect to AR2, AR3, and AR4 simultaneously as submitted by the Examiner.

In view of the above, Applicant submits that the above rejection of independent claim 15 under 35 U.S.C. § 102(e) should be withdrawn. Dependent claims 16-18 and 22 further define patentably distinct independent claim 15. Accordingly, Applicant believes that these dependent claims are also allowable over the cited reference. Allowance of claims 15-18 and 22 is respectfully requested.

For similar reasons as discussed above with reference to independent claim 15, Applicant submits that Chaskar also fails to teach or suggest the limitations recited by amended independent claim 26 including "**said computer further comprising a transceiver for establishing a connection to a first network over a first channel if sufficient bandwidth is available and for establishing a connection to a second network over a second channel simultaneously with the connection to the first network if sufficient bandwidth is available;**" and the limitations recited by independent claim 29 including "**and commencing creation of the connection for channels of the network for which there is bandwidth available and maintaining channels with the existing network for which there is no bandwidth available in the network.**"

In view of the above, Applicant submits that the above rejection of independent claims 26 and 29 under 35 U.S.C. § 102(e) should be withdrawn. Dependent claims 30-32 further define patentably distinct independent claim 29. Accordingly, Applicant believes that

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these dependent claims are also allowable over the cited reference. Allowance of claims 26 and 29-32 is respectfully requested.

Applicants submit that Chaskar also fails to teach or suggest the limitation recited by independent claim 37 including "**and commencing creation of the connection for channels of the network for which there is bandwidth available based on a ranking of importance of the channels to be handed over to the network.**"

The Examiner submits that Chaskar teaches this claim limitation in that a user of a mobile terminal can establish a profile to indicate preference for automatic handoff to either free access or cost-based access service area. (Final Office Action, page 7). Chaskar does not disclose that the user of the mobile terminal *ranks the order of importance of the channels to be handed over* to another access router. Rather, Chaskar merely discloses that the user may indicate preferences for determining to which access router the mobile terminal is handed off. (Para. [0046]). The preferences in Chaskar do not determine which *channels* will be handed off to the new access router.

In view of the above, Applicant submits that the above rejection of independent claim 37 under 35 U.S.C. § 102(e) should be withdrawn. Allowance of claim 37 is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-14, 19-21, 23-25, 27, 28, and 33-36 under 35 U.S.C. § 103(a) as being unpatentable over Chaskar in view of Lette et al., U.S. Patent Application Publication No. 2003/0018784 ("Lette").

Applicant submits that Chaskar and Lette, either alone, or in combination, fail to teach or suggest the limitations recited by amended independent claim 1 including "**and pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available before commencing creating the connection.**"

The Examiner admits that Chaskar does not explicitly teach pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available. (Final Office Action, page 3). The Examiner submits that Lette teaches this claim limitation. (Final Office Action, page 3).

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Lette discloses a system and method for pre-allocating resources to improve consumer experiences associated with registering for, and subsequently using, an application and/or services available over the Internet by reducing problems associated with resource allocation delays and replication latencies. (Para. [0006]). The resources are managed by a resource manager. The resources can include disk space, processor cycles, communication bandwidth, display space, and security devices. (Para. [0029]). The tasks performed by the resource manager include allocating space (disk space and memory), de-allocating space, reallocating space, reclaiming space, sending data, receiving data, acquiring display space, releasing displaying space, requesting security services, and requesting printing services. (Para. [0029]). The service can be available via a protocol that identifies a user through a cookie or a persistent Internet connection. (Para. [0029]).

Lette fails to disclose pre-allocating bandwidth of a *wireless network*. Rather, Lette discloses pre-allocating bandwidth of a service available over the Internet for which a consumer has registered. Lette discloses that a data communications device (e.g., a modem) may be assigned to mange and/or consume the communications bandwidth. (Para. [0053]). The resources pre-allocated by Lette do not include bandwidth of a *wireless network*.

In addition, one of ordinary skill in the art at the time of the invention would not combine the pre-allocating bandwidth of a service available over the Internet as disclosed by Lette with the handing off of mobile terminals in a wireless network as disclosed by Chaskar and arrive at the limitations recited by claim 1. Lette is not related to mobile terminals operating on a wireless network. The bandwidth of a service available over the Internet as disclosed by Lette is not related to a bandwidth of a wireless network. Even if one of ordinary skill in the art were to combine the pre-allocation of bandwidth of a service available over the Internet as disclosed by Lette with the wireless network disclosed by Chaskar, the combination would not result in the limitations recited by claim 1 since Lette does not deal with a wireless network. Therefore, one of ordinary skill in the art would not be motivated to pre-allocate bandwidth of the wireless network disclosed by Chaskar based on the teaching of Lette.

In view of the above, Applicant submits that the above rejection of independent claim 1 under 35 U.S.C. § 103(a) should be withdrawn. Dependent claims 2-12 and 20 further

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define patentably distinct independent claim 1. Accordingly, Applicant believes that these dependent claims are also allowable over the cited references. Allowance of claims 1-12 and 20 is respectfully requested.

In addition, for similar reasons as discussed above with reference to independent claim 15, Applicant submits that Chaskar and Lette, either alone, or in combination, also fail to teach or suggest the further limitations recited by dependent claim 5 including "**in which the method allows some channels to be maintained with the existing network, whilst other channels are handed over to the network.**" Chaskar discloses that a failure indication is delivered to a mobile terminal if a handoff based on the delivered requirements is not feasible. (Para. [0038]). The mobile terminal disclosed by Chaskar cannot maintain channels with two access routers simultaneously. Lette also fails to disclose this claim limitation.

Further, for similar reasons as discussed above with reference to independent claim 37, Applicant submits that Chaskar and Lette, either alone, or in combination, also fail to teach or suggest the further limitations recited by dependent claim 7 including "**in which the computing device ranks the order of importance of the channels to be handed over to the network.**" Chaskar does not disclose that the mobile terminal *ranks the order of importance of the channels to be handed over* to another access router. Lette also fails to disclose this claim limitation.

For similar reasons as discussed above with reference to independent claim 1, Applicant submits that Chaskar and Lette, either alone, or in combination, also fail to teach or suggest the limitations recited by amended independent claim 13 including "**the processor is further arranged to pre-allocate bandwidth to at least one connection prior to the device joining the wireless network;**" the limitations recited by amended independent claim 19 including "**the processor being further arranged to process data received from said receiver and to pre-allocate a bandwidth to a connection prior to a computing device joining the wireless network;**" the limitations recited by amended independent claim 24 including "**and pre-allocating the bandwidth to the device in response to determining that the bandwidth is available before commencing creation of the connection to the device;**" the limitations recited by amended independent claim 25 including "**wherein the**

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processing arrangement is arranged to control the allocator and further arranged to cause the allocator to pre-allocate a bandwidth to the at least one wireless data connection prior to forming the wireless connection if the bandwidth required to form a wireless connection is available;" the limitations recited by amended independent claim 27 including **"and pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available before commencing creating the connection to the wireless network;"** the limitations recited by amended independent claim 33 including **"the processor being further arranged to pre-allocate bandwidth to at least one channel prior to the device joining the wireless network if the processor determines that bandwidth is available;"** the limitations recited by amended independent claim 34 including **"and pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available before commencing creating the connection;"** the limitations recited by amended independent claim 35 including **"and pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available before commencing creation of the connection to the device;"** and the limitations recited by amended independent claim 36 including **"and pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available before commencing creating the connection to the wireless network."**

In view of the above, Applicant submits that the above rejection of independent claims 13, 19, 24, 25, 27, and 33-36 under 35 U.S.C. § 103(a) should be withdrawn. Dependent claims 21, 23, and 28 further define patentably distinct independent claim 13, 19, or 27. Accordingly, Applicant believes that these dependent claims are also allowable over the cited references. Allowance of claims 13, 14, 19, 21, 23-25, 27, 28, and 33-36 is respectfully requested.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-37 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-37 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(h)(i). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 08-2025.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment/Reply should be directed to Mark A. Peterson at Telephone No. (612) 573-0120, Facsimile No. (612) 573-2005.

Respectfully submitted,

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